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19 GILEAD SCIENCES, INC.

20 IN THE UNITED STATES DISTRICT COURT
21 FOR THE NORTHERN DISTRICT OF CALIFORNIA
22 SAN JOSE DIVISION

23 GILEAD SCIENCES, INC.,

24 Plaintiff and Counterdefendant,

25 v.

26 MERCK & CO., INC. (Defendant only), MERCK
27 SHARP & DOHME CORP., and ISIS
PHARMACEUTICALS, INC.

28 Defendants and Counterclaimants.

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MERCK SHARP & DOHME CORP. and ISIS
PHARMACEUTICALS, INC.

Case No. 5:13-cv-04057-BLF

**JOINT STATUS REPORT AND
STIPULATION TO STAY DEADLINE FOR
GILEAD TO MOVE FOR A
SUPPLEMENTAL AWARD OF
ATTORNEYS' FEES PURSUANT TO 35
U.S.C. 285 AND FED. R. CIV. P. 54**

The parties submit this joint status report to Pursuant to the Court's Order dated October 18, 2018 (ECF No. 512).

Status of This Case on Appeal

On January 7, 2019, the Supreme Court denied Merck's Petition for a Writ of Certiorari. (See Exhibit A.)

Status of Parties' Dispute Concerning Supplemental Attorneys' Fees and Interest

The parties are currently engaged in negotiations concerning the total amount that Merck will reimburse Gilead for the Court’s award of attorneys’ fees (ECF No. 489), Gilead’s appellate attorneys’ fees, and pre- and post-judgment interest. The parties expect to reach agreement on these issues without further assistance from the Court.

Accordingly, the parties hereby stipulate and agree, subject to the Court's approval, that the deadline by which Gilead should move for a supplemental of award of attorneys' fees and/or pre- and post-judgment interest remains stayed, without prejudice, during the pendency of the parties' continued negotiations. (See ECF No. 512, ¶¶ 10 & 12.)

The parties shall file a joint status report no later than March 8, 2019 advising the Court on the status of negotiations, including, if necessary, what issues remain that cannot be resolved by stipulation, and/or proposing a new deadline by which Gilead should move for a supplemental award of attorneys' fees and/or pre- and post-judgment interest.

The proposed continued stay will not impact the schedule for this case since there is no schedule in place.

Dated: February 21, 2019

FISH & RICHARDSON P.C.

By: _____ /s/ *Elizabeth M. Flanagan*
Elizabeth M. Flanagan

Attorney for Plaintiff and Counterclaim Defendant
GILEAD SCIENCES, INC.

Dated: February 21, 2019

WILLIAMS & CONNOLLY LLP

By: _____ */s/ Stanley E. Fisher*
Stanley E. Fisher

Attorney for Defendant MERCK & CO., INC.
and Defendants and Counterclaimants
MERCK SHARP & DOHME CORP. and ISIS
PHARMACEUTICALS, INC.

SIGNATURE ATTESTATION

Pursuant to Civil Local Rule 5.1(i)(3), I attest under penalty of perjury that concurrence in the filing of this document has been obtained from its signatory.

/s/ Elizabeth M. Flanagan

Elizabeth M. Flanagan

PURSUANT TO STIPULATION, IT IS SO ORDERED.

HONORABLE BETH LABSON FREEMAN